

ESTTA Tracking number: **ESTTA240138**Filing date: **10/01/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Paul Gerteis		
Entity	Individual	Citizenship	SWITZERLAND
Address	Hummelwaldstrasse 15 Jona, 8645 SWITZERLAND		

Attorney information	Michael J. Striker Striker, Striker & Stenby 103 East Neck Road Huntington, NY 11743 UNITED STATES striker@strikerlaw.com Phone:(631) 549 4700
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**Registration Subject to Cancellation**

Registration No	3041910	Registration date	01/10/2006
International Registration No.	NONE	International Registration Date	NONE
Registrant	Alexanderwerk AG Kippdorfstr. 6-24 D-42857 Remscheid GERMANY		

**Goods/Services Subject to Cancellation**

Class 007. All goods and services in the class are cancelled, namely: Processing machines for powdery substances, namely roll presses for use in chemical, pharmaceutical and industrial industry.
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	2533539	Application Date	03/02/2000
Registration Date	01/29/2002	Foreign Priority Date	NONE
Word Mark	PACTOR		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 007. First use: COMPACTORS FOR COMPACTING GRANULAR MATERIAL INTO SOLID MATERIAL FOR USE IN THE PHARMACEUTICAL, FOOD AND PLASTIC INDUSTRIES

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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael J. Striker/
Name	Michael J. Striker
Date	10/01/2008

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

PAUL GERTEIS,	)	
	)	
Petitioner,	)	
	)	Cancellation No.
v	)	
	)	
ALEXANDERWERK AG,	)	
	)	
Registrant.	)	
	)	
	)	

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**PETITION FOR CANCELLATION**

September 30, 2008

Petitioner, Paul Gerteis, hereby petitions to cancel United States Trademark Registration No. 3,041,910 which issued on January 10, 2006 to Registrant, Alexanderwerk AG.

The following reasons are assigned in support of this Petition for Cancellation:

1. Petitioner, Paul Gerteis, is an individual residing in the Country of Switzerland and is the President & Chief Operating Officer of Gerteis Maschinen + Process Engineering AG of Jona, Switzerland.

2. At all times relevant hereto Paul Gerteis has owned and now owns and controls all aspects of Gerteis Maschinen + Process Engineering AG.

3. Upon information and belief, Alexanderwerk AG is a company located in Remscheid, Germany.

4. Paul Gerteis is the owner of United States Trademark Registration No. 2,533,539 for the mark PACTOR for compactors for compacting granular material into solid material for use in the pharmaceutical, food and plastic industries. Section 8 and Section 15 declarations have been filed with respect thereto, and the said registration is incontestable.

5. Paul Gerteis has used the mark PACTOR in commerce, in the United States for many years and long prior to any use of the mark PowerPactor by Alexanderwerk AG in commerce in the United States.

6. The registration sought to be canceled herein, Registration No. 3,041,910 is for the mark PowerPactor for processing machines for powdery substances, namely roll presses for use in chemical, pharmaceutical and industrial industry.

7. The said Registration No. 3,041,910 does not allege any use in commerce in the United States, and is restricted to a priority date of October 27, 2003.

8. Since long prior to October 27, 2003, Petitioner, Paul Gerteis, has used in commerce in the United States the mark PACTOR either alone or with the prefixes "MINI" for processing machines for powdery substances.

9. Registrant's mark, PowerPactor, is confusingly similar to Petitioner's mark PACTOR. The prefix "POWER" is merely an embellishment and the dominant portion of Registrant's mark is the word PACTOR. The word PACTOR is identical to Petitioner's mark.

10. Use of the mark PowerPactor by Registrant in commerce in the United States is likely to cause confusion with Petitioner's established mark PACTOR.

11. Actual confusion has taken place in commerce in the United States between the marks PowerPactor and Registrant's mark PACTOR.

12. Petitioner is damaged by the existence of Trademark Registration No. 3,041,910 because the use of said mark therein is likely to cause confusion and has caused confusion in the marketplace. Consumers are confused and are likely to be confused as to the source or origin of the respective goods. Defects in Registrant's products bearing the mark PowerPactor will harm and have harmed the reputation of Petitioner.

In view of all the above, Registration No. 3,041,910, should be cancelled.

The required fee is submitted herewith. If the fee is missing, authorization is given to debit the account of the undersigned 19-4675.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Striker", with a long horizontal flourish extending to the right.

Michael J. Striker  
Attorney for Applicant  
Reg. No.: 27233  
103 East Neck Road  
Huntington, New York 11743

## **CERTIFICATE OF SERVICE**

It is hereby certified that a true and complete copy of the attached Petition for Cancellation was mailed to Counsel of record for the Registrant via first class mail to the following address, on this 1<sup>st</sup> day of October, 2008:

Proskauer Rose, LLP  
1585 Broadway  
New York, New York  
10036-8299  
Attention: Charles Gutman

  
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MICHAEL J. STRIKER